

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America

v.

Ithamar Renee Southern

Case No. 4:05-cr-00770-TLW 2

ORDER

This matter is before the Court on Defendant Ithamar Renee Southern's *pro se* motion for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A)(i) based on his "stacked" sentences for violations of 18 U.S.C. § 924(c). ECF No. 506.

The Court may reduce a defendant's sentence under that statute only "after [(1)] the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or [(2)] the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier" 18 U.S.C. § 3582(c)(1)(A). This statute requires a defendant to exhaust administrative remedies prior to seeking relief in this Court. *See Ross v. Blake*, 136 S. Ct. 1850, 1857 (2016) (finding that "mandatory exhaustion statutes . . . establish mandatory exhaustion regimes, foreclosing judicial discretion"); *United States v. Monzon*, No. 99cr157 (DLC), 2020 WL 550220, at *2 (S.D.N.Y. Feb. 4, 2020) (denying motion for reduction of sentence because defendant failed to exhaust his administrative remedies).

The Government opposes Southern's motion, arguing that he "has failed to exhaust his administrative remedies." ECF No. 545 at 4. In his motion, Southern notes that "the First Step Act of 2018 now provides a gateway for inmates to pursue

sentencing relief in the courts, once 30 days have passed after requesting such relief from the warden of the inmate's institution of incarceration." ECF No. 506. Despite noting this necessary procedural first step, Southern has not provided any documentation that he has made such a request to his warden or that he has exhausted his administrative remedies. Therefore, his motion, ECF No. 506, is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust his administrative remedies.

Southern has the right to refile a § 3582 motion seeking a reduction in his sentence. Any refiled motion must include documentation showing either that he has exhausted his administrative remedies or that he has made a request for relief to the warden of his facility that has been pending for more than thirty days.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

June 23, 2023
Columbia, South Carolina